



**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Part 31**

**[FAR Case 2011-019; Docket 2011-0019; Sequence 1]**

**RIN: 9000-AM23**

**Federal Acquisition Regulation; Updated Postretirement  
Benefit (PRB) References**

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Proposed rule.

**SUMMARY:** DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to remove references to specific paragraphs in an accounting standard that were deleted in the Financial Accounting Standards Board's (FASB's) Accounting Standards Codification (ASC) of Generally Accepted Accounting Principles (GAAP). The immediate and delayed recognition procedures for the initial application transition obligation in paragraphs 111, 112, and 113, respectively, of superseded Financial Accounting Standard (FAS) 106, are obsolete and no longer exist in the authoritative GAAP (the ASC). DoD, GSA, and NASA, therefore, propose replacing the current references with replacement criteria for determining the allowability of the transition obligation, when converting from pay-as-

you-go accounting for postretirement benefits (PRBs) to an accrual method of accounting for the purposes of government contract cost accounting.

**DATES:** Interested parties should submit written comments to the Regulatory Secretariat at one of the addressees shown below on or before **[Insert 60 days after publication in the FEDERAL REGISTER]** to be considered in the formation of the final rule.

**ADDRESSES:** Submit comments in response to FAR Case 2011-019 by any of the following methods:

- Regulations.gov: <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching "FAR Case 2011-019". Select the link "Submit a Comment" that corresponds with "FAR Case 2011-019." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "FAR Case 2011-019" on your attached document.
- Fax: 202-501-4067.
- Mail: General Services Administration, Regulatory Secretariat (MVCB), ATTN: Hada Flowers, 1275 First Street, NE., 7<sup>th</sup> Floor, Washington, DC 20417.

Instructions: Please submit comments only and cite FAR Case 2011-019, in all correspondence related to this case. All comments received will be posted without

change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

**FOR FURTHER INFORMATION CONTACT:** Mr. Edward N. Chambers, Procurement Analyst, at 202-501-3221 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755. Please cite FAR Case 2011-019.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

In June of 2009, the FASB announced, in its Statement Number 168, that effective for financial statements issued for interim and annual periods ending after September 15, 2009, the FASB ASC would become the source of authoritative U.S. GAAP recognized by the FASB to be applied by nongovernmental entities. The FASB stated that this codification in the ASC supersedes existing references in U.S. GAAP.

On February 16, 2011, DoD, GSA, and NASA issued a proposed rule under FAR Case 2010-005, published in the Federal Register at 76 FR 8989, which replaced the superseded GAAP references for three sections of the FAR, and also stated that the reference to "prior GAAP" in FAR 31.205-6(o)(2)(iii)(A)(1) would be handled in a separate

case. This proposed rule is the separate case, FAR Case 2011-019.

The superseded GAAP provisions in FAR 31.205-6(o)(2)(iii)(A)(1) reference the description of "transition obligation" in paragraph 110 of FAS 106 and the "delayed recognition methodology" in paragraphs 112 and 113, also of FAS 106.

These references to FAS 106 in the cost principle were added in FAR Case 91-42, published in the Federal Register at 56 FR 41738 on August 22, 1991. At the time, DoD, GSA, and NASA decided not to allow contractors to claim the entire "transition obligation" associated with their initial application of FAS 106 as an allowable cost in accordance with the "immediate recognition" procedure (superseded paragraph 111) in FAS 106. (The transition obligation associated with initial application of FAS 106 is referred to hereafter as the "initial application transition obligation.") Therefore, DoD, GSA, and NASA disallowed costs for the amortization of the initial application transition obligation in excess of the amount amortized using the delayed recognition method procedure in paragraphs 112 and 113 of FAS 106.

DoD, GSA, and NASA note that the immediate and delayed recognition procedures for the initial application transition obligation in paragraphs 111, 112, and 113,

respectively, of superseded FAS 106, are obsolete because FAS 106 no longer exists in the authoritative GAAP (the ASC). When the FASB recodified FAS 106 into the ASC, paragraphs 111 through 114 were not included because public companies recognized the transition obligation in the first fiscal period beginning after December 15, 1994, or shortly thereafter if exempted from the initial effective date. While the existing provision at FAR 31.205-6(o)(2)(iii)(A)(1) remains in force because the referenced paragraphs can be found in the historical accounting literature, the passage of time raises concerns that these paragraphs may become less readily available. DoD, GSA, and NASA conclude, therefore, that replacement criteria are needed for determining the allowability of the transition obligation, when converting from pay-as-you-go accounting for PRBs to an accrual method of accounting for the purposes of government contract cost accounting.

DoD, GSA, and NASA propose replacing the current reference to the recognition of the transition method in accordance with provisions of GAAP that no longer exist with explicit criteria that generally replicates the former GAAP methodology.

DoD, GSA, and NASA acknowledge that contractors have in the past and may continue to propose a change to their government contract cost accounting practice whereby the

"pay-as-you-go" method is replaced by the "accrual" method and this may give rise to a transition obligation that is similar in its nature, but not its amount, to the initial application transition obligation that arose when (now superseded) FAS 106 first became applicable in the early 1990's for financial reporting purposes.

Consequently, DoD, GSA, and NASA are removing the obsolete references to paragraphs 110, 112, and 113 in FAR 31.205-6(o)(2)(iii)(A)(1). The revision is intended to allow a general continuation of the obsolete GAAP delayed recognition method for contractors that move from a pay-as-you-go method of accounting to an accrual basis of accounting for PRB costs for government contract cost accounting.

## **II. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review

under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

### **III. Regulatory Flexibility Act**

Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA) do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because the rule only removes references to specific paragraphs in an accounting standard that were deleted in the Financial Accounting Standards Board's (FASB's) Accounting Standards Codification (ASC) of Generally Accepted Accounting Principles (GAAP) and replaces these references with explicit criteria that generally replicates the former GAAP methodology. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by this proposed rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments

separately and should cite 5 U.S.C. 610 (FAR Case 2011-019) in correspondence.

#### **IV. Paperwork Reduction Act**

The proposed rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

#### **List of Subjects in 48 CFR Part 31**

Government procurement.

Dated: May 14, 2012

Laura Auletta,  
Director,  
Office of Governmentwide  
Acquisition Policy,  
Office of Acquisition Policy,  
Office of Governmentwide Policy.



Therefore, DoD, GSA, and NASA propose amending 48 CFR part 31 as set forth below:

**PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES**

1. The authority citation for 48 CFR part 31 continues to read as follows:

**AUTHORITY:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Amend section 31.205-6 by revising the introductory text of paragraph (o)(2)(iii)(A) and paragraph (o)(2)(iii)(A)(1) to read as follows:

**31.205-6 Compensation for personal services.**

\* \* \* \* \*

(o) \* \* \*

(2) \* \* \*

(iii) \* \* \*

(A) Be measured and assigned in accordance with one of the following two methods described under paragraphs (o)(2)(iii)(A)(1) or (o)(2)(iii)(A)(2) of this subsection:

(1) Generally accepted accounting principles. However, transitions from the pay-as-you-go method to the accrual accounting method must be handled according to paragraphs (o)(2)(iii)(A)(1)(i) through (iii) of this section:

(i) In the year of transition from the pay-as-you-go method to accrual accounting for purposes of

government contract cost accounting, the transition obligation shall be the excess of the accumulated PRB obligation over the fair value of plan assets determined in accordance with subparagraph (E) of this section; the fair value must be reduced by the prepayment credit as determined in accordance with subparagraph (o)(2)(iii)(F) of this subsection.

(ii) PRB cost attributable to the transition obligation assigned to the current year that is in excess of the amount assignable to accounting periods on the basis of a straight line amortization of the transition obligation over the average remaining working lives of active employees covered by the PRB plan or a 20-year period, whichever period is longer, is unallowable. However, if the plan is comprised of inactive participants only, the PRB cost attributable to the transition obligation assigned to the current year that is in excess of the amount assignable to accounting periods on a straight line amortization of the transition obligation over the average future life expectancy of the participants is unallowable.

(iii) For a plan that transitioned from pay-as-you-go to accrual accounting for government contract cost accounting prior to **(DATE OF FINAL RULE)**, the unallowable amount of PRB cost attributable to the transition obligation amortization shall continue to be based on the cost

principle in effect at the time of the transition until the original transition obligation schedule is fully amortized.

\* \* \* \* \*

[BILLING CODE 6820-EP]

[FR Doc. 2012-11959 Filed 05/16/2012 at 8:45 am; Publication

Date: 05/17/2012]